

§ 2540.203

State criminal registry for the State in which your program operates and the State in which the individual resides at the time of application; and

(b) *National Sex Offender Public Registry*. A name-based search of the Department of Justice (DOJ) National Sex Offender Public Registry (NSOPR).

[72 FR 48582, Aug. 24, 2007]

§ 2540.203 When must I conduct a State criminal registry check and a NSOPR check on an individual in a covered position?

(a) The State criminal registry check must be conducted on an individual who enrolls in, or is hired by, your program after November 23, 2007.

(b) The NSOPR check must be conducted on an individual who is serving, or applies to serve, in a covered position on or after November 23, 2007.

(c) For an individual who serves consecutive terms of service in your program with a break in service of no more than 30 days, no additional check is required after the first term.

[72 FR 48582, Aug. 24, 2007]

§ 2540.204 What procedures must I follow in conducting a National Service Criminal History Check for a covered position?

You are responsible for following these procedures:

(a) Verify the individual's identity by examining the individual's government-issued photo identification card, such as a driver's license;

(b) Obtain prior, written authorization for the State criminal registry check and the appropriate sharing of the results of that check within the program from the individual (but not for the NSOPR check);

(c) Document the individual's understanding that selection into the program is contingent upon the organization's review of the individual's criminal history, if any;

(d) Provide a reasonable opportunity for the individual to review and challenge the factual accuracy of a result before action is taken to exclude the individual from the position;

(e) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check,

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consistent with authorization provided by the applicant; and

(f) Ensure that an individual, for whom the results of a required State criminal registry check are pending, is not permitted to have access to children, persons age 60 and older, or individuals with disabilities without being accompanied by an authorized program representative who has previously been cleared for such access.

[72 FR 48582, Aug. 24, 2007]

§ 2540.205 What documentation must I maintain regarding a National Service Criminal History Check for a covered position?

You must:

(a) Document in writing that you verified the identity of the individual in a covered position by examining the individual's government-issued photo identification card, and that you conducted the required checks for the covered position; and

(b) Maintain the results of the National Service Criminal History check (unless precluded by State law) and document in writing that you considered the results in selecting the individual.

[72 FR 48582, Aug. 24, 2007]

§ 2540.206 Under what circumstances may I follow alternative procedures in conducting a State criminal registry check for a covered position?

(a) *FBI fingerprint-based check*. If you conduct and document a fingerprint-based criminal history check through the Federal Bureau of Investigation, you will be deemed to have satisfied the State criminal registry check requirement and do not need separate approval by the Corporation.

(b) *Name-based search*. If you conduct and document a name-based criminal history check through a source other than the FBI that includes a check of the criminal records repository in the State in which your program is operating, as well as in the State in which the applicant lives, you will be deemed to have satisfied the State criminal registry check requirement and do not need separate approval by the Corporation.

(c) *Alternative search approval*. If you demonstrate that you are prohibited or